

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA,	§	
	§	
v.	§	CRIMINAL ACTION NO. 4:15-CR-112-
	§	ALM
JOSEPH THOMAS GOWEN (1),	§	
	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant Joseph Thomas Gowen's ("Defendant") supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on February 25, 2021, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson of the Federal Public Defender's Office. The Government was represented by Anand Varadarajan.

Defendant was sentenced on October 27, 2015, before The Honorable Marcia A. Crone of the Eastern District of Texas after pleading guilty to the offense of Possession of a Firearm While an Unlawful User of a Controlled Substance, a Class C felony. This offense carried a statutory maximum imprisonment term of not more than 10 years. The guideline imprisonment range, based on a total offense level of 23 and a criminal history category of VI, was 92 to 115 months. Defendant was subsequently sentenced to 95 months imprisonment followed by a three-year term of supervised release subject to the standard conditions of release, plus special conditions to include submission of requested financial information, testing and treatment for drug abuse, mental health treatment, and a \$100 special assessment. On February 24, 2016, Defendant was re-sentenced to 53 months and 18 days imprisonment with credit given in accordance with 18 U.S.C. § 3585(b), for time spent in custody in Cause No. 4:11CR94 which was dismissed as void. On

May 10, 2019, Defendant completed his period of imprisonment and began service of the supervision term. He was also serving a term of supervision with state parole. On February 14, 2020, the case was reassigned to The Honorable Amos L. Mazzant, III.

On February 20, 2020, the United States Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 26, Sealed]. The Petition asserted that Defendant violated two (2) conditions of supervision, as follows: (1) the defendant shall not commit another federal, state or local crime; and (2) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician [Dkt. 26 at 1, Sealed].

The Petition alleges that Defendant committed the following acts: (1), (2) On June 18, 2019, a Carrollton, Texas, Police Officer was on patrol and observed a vehicle in the southbound lanes without its headlamps activated. The vehicle appeared to be speeding, appeared to weave in the lane and nearly struck a curb. A traffic stop was initiated, and contact was made with the driver, identified as Defendant. Defendant was the sole occupant of the vehicle and appeared to have blood shot and glassy eyes. His speech was slurred as well. The officer could smell the odor of alcohol emitting from Defendant's breath. A field sobriety test was administered, and Defendant exhibited six out of six clues of intoxication. A check of Defendant's criminal history revealed he had two prior convictions for Driving While Intoxicated. He was then arrested and charged with Driving While Intoxicated 3rd or more. A blood specimen was also taken at this time. Defendant was released from the Denton County Jail on June 20, 2019 on a \$2,000 bond. On July 31, 2019, Defendant was arrested for state parole violation and has remained in custody since that time. On January 24, 2020, Defendant was indicted by Denton County for the offense

of Driving While Intoxicated 3rd or more. Bond was set at \$20,000. Currently, he remains in custody in Denton County and an Arraignment Hearing is scheduled for February 19, 2020. Case No. F20-88-16. [Dkt. 26 at 1-2, Sealed].

Prior to the Government putting on its case, Defendant entered a plea of true to both allegations 1 and 2 of the Petition. Having considered the Petition and the plea of true to allegations 1 and 2, the Court finds that Defendant did violate his conditions of supervised release.

Defendant waived his right to allocute before the District Judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-one (21) months, such term of imprisonment to run concurrently with any term of imprisonment imposed in Defendant's state DWI case in Denton County, Case No. F20-88-16, with no term of supervised release to follow.

The Court also recommends that Defendant be housed in the Bureau of Prisons facility in El Reno, Oklahoma, if appropriate.

SIGNED this 5th day of April, 2021.

A handwritten signature in black ink, appearing to read 'C.A. Nowak', is written over a horizontal line.

Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE